

United States District Court

NORTHERN DISTRICT OF CALIFORNIA

FILED

JUL 15 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

Venue: San Francisco

V.

CRIMINAL COMPLAINT

JUAN EMMANUEL TRIGOS-HERNANDEZ
a/k/a HECTOR AGUILAR

CASE NUMBER:

3 08 70433

MEJ

I, the undersigned complainant being duly sworn, state the following is true and correct to the best of my knowledge and belief. On or about July 8, 2008 in Lake County, in the Northern District of California defendant,

JUAN EMMANUEL TRIGOS-HERNANDEZ (a/k/a HECTOR AGUILAR), an alien, after having been removed, excluded, and deported from the United States, was thereafter found in the United States without having obtained the express consent of the Attorney General or the Secretary of the Department of Homeland Security to reapply for admission into the United States, in violation of Title 8 United States Code, Section(s) 1326.

I further state that I am a Deportation Officer and that this complaint is based on the following facts:

Official Title

SEE ATTACHED AFFIDAVIT IN SUPPORT OF THIS COMPLAINT

PENALTIES: Imprisonment for not more than 20 years, a fine of not more than \$250,000.00, a \$100.00 dollar special assessment, and 3 years supervised release.

APPROVED AS TO FORM:

Assistant UNITED STATES ATTORNEY

Nat Cousins

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ NoWarrant of Arrest Requested: ☐ Yes ☒ NoBail Amount: **NO BAIL**

Signature of Complainant

Sworn to before me and subscribed in my presence,

Date

7-15-08

at

San Francisco, California

City and State

Honorable Maria-Elena James

United States Magistrate Judge

Name & Title of Judicial Officer



Signature of Judicial Officer

STATE AND NORTHERN DISTRICT OF CALIFORNIA)
) ss, AFFIDAVIT
CITY AND COUNTY OF SAN FRANCISCO)

I, Polly E. Kaiser, Deportation Officer, U.S. Immigration and Customs Enforcement (ICE), being duly sworn, depose and state:

I. INTRODUCTION AND PURPOSE OF AFFIDAVIT

1. This affidavit is submitted in support of a criminal complaint against JUAN EMMANUEL TRIGOS-HERNANDEZ, a/k/a HECTOR AGUILAR, for violating 8 U.S.C. § 1326. The facts set forth in this Affidavit are based on my review of TRIGOS-HERNANDEZ'S official Immigration file (No. A34 615 927), my personal observations, my training and experience, and where noted, information related to me by other law enforcement officials. However, the facts set forth in this Affidavit are not all of the facts related to TRIGOS-HERNANDEZ that I know.

II. AGENT'S BACKGROUND AND EXPERTISE

2. I have been a Deportation officer with the U. S. Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), formerly the United States Department of Justice (DOJ), Immigration and Naturalization Service (INS), for over 5 years. I am currently assigned to ICE's San Francisco, California office, and I am responsible for enforcing federal criminal statutes involving criminal aliens who reenter the United States illegally.

III. APPLICABLE LAW

3. Title 8 U.S.C. § 1326 provides criminal penalties for “any alien who . . . has been denied admission, excluded, deported, or removed or has departed the United States while an order of exclusion, deportation, or removal is outstanding, and thereafter enters, attempts to enter, or is at any time found in, the United States, unless (A) prior to his reembarkation at a place outside the United States or his application for admission from foreign contiguous territory, the Attorney General has expressly consented to such alien’s reapplying for admission; or (B) with respect to an alien previously denied admission and removed, unless such alien shall establish that he was not required to obtain such advance consent under this chapter or any prior Act”

IV. FACTS ESTABLISHING PROBABLE CAUSE

4. JUAN EMMANUEL TRIGOS-HERNANDEZ, a/k/a HECTOR AGUILAR is a 44 year-old male who is a native and citizen of Mexico. TRIGOS-HERNANDEZ was deported from the United States to Mexico on July 27, 2007.

5. TRIGOS-HERNANDEZ last entered the United States illegally on June 18, 2008 by voluntarily crossing into Calexico, California through the international border with Mexico by foot. TRIGOS-HERNANDEZ knowingly remained in the United States without first having obtained the consent to reapply for admission from the Attorney General of the United States or the United States Secretary of Homeland Security.
6. The official Immigration file for TRIGOS-HERNANDEZ contains one executed Warrant of Removal. The Warrant of Removal is dated July 27, 2007 which is the date TRIGOS-HERNANDEZ was deported from the United States to Mexico.
7. On or about July 8, 2008, an Immigration and Customs Enforcement (ICE) agent encountered TRIGOS-HERNANDEZ pursuant to his release from Lake County Jail in Lakeport, California on unrelated charges.
8. On July 8, 2008, ICE Agent Marshall Matson interviewed TRIGOS-HERNANDEZ at the ICE San Francisco District Office located in San Francisco, California. After TRIGOS-HERNANDEZ was advised of his Miranda rights and the right to speak with the consular or diplomatic officers of his country of citizenship, he admitted that his true name was JUAN EMMANUEL TRIGOS a/k/a HECTOR AGUILAR. TRIGOS-HERNANDEZ admitted that he was a citizen and national of Mexico and that he had been previously deported from the United States. He also admitted that he illegally reentered the United States on June 18, 2008.
9. On July 8, 2008, at the ICE San Francisco District Office, TRIGOS-HERNANDEZ'S fingerprints and photos were submitted into the Auto Biometric Identification System (IDENT). IDENT information confirmed TRIGOS-HERNANDEZ'S identity under Fingerprint Identification Number (FINS) 1039679703.
10. On July 14, 2008, a full set of rolled fingerprints belonging to TRIGOS-HERNANDEZ was submitted to the Automated Fingerprint Identification Center ("AFIS"), for further verification of the identity. Along with the full set of prints belonging to TRIGOS-HERNANDEZ, the single print appearing on the Warrant of Removal (executed July 27, 2007) for TRIGOS-HERNANDEZ were submitted for comparison. The fingerprint examiner positively identified the fingerprints as belonging to the same JUAN EMMANUEL TRIGOS-HERNANDEZ who had previously been removed from the United States on July 27, 2007.
11. There is no indication in ICE's official files that TRIGOS-HERNANDEZ has applied for or been granted the requisite permission to reenter the United States from either the Attorney General of the United States or the Secretary of Homeland Security.

ATTACHMENT "A"

On or about July 8, 2008, the defendant, Juan Emmanuel Trigos-Hernandez (AKA: Hector Aguilar), an alien having been previously deported from the United States, was found in Lake County, in the State and Northern District of California, without having obtained express consent for reapplication for admission from either the Attorney General of the United States or his successor, the Secretary for Homeland Security (Title 6, United States Code, Sections 202(3), (4) and 557).

V. CONCLUSION

12. On the basis of the above information, I submit that probable cause exists to believe that JUAN EMMANUEL TRIGOS-HERNANDEZ, a/k/a HECTOR AGUILAR illegally reentered the United States following deportation, in violation of 8 U.S.C. § 1326.



Polly E. Kaiser
Deportation Officer
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security
San Francisco, California

Subscribed and sworn to before me this 15 day of July, 2008.



The Honorable Maria-Elena James
United States Magistrate Judge
Northern District of California
San Francisco, California

AO 257 (Rev. 6/78)

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT
 BY: ☒ COMPLAINT ☐ INFORMATION ☐ INDICTMENT
☐ SUPERSEDING
OFFENSE CHARGED

8 USC Sec. 1326

- ☐
- Petty
-
- ☐
- Minor
-
- ☐
- Misdemeanor
-
- ☒
- Felony

PENALTY: Imprisonment not more than 20 years; fine of not more than \$250,000; \$100 special assessment; 3 years supervised release

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

DEFENDANT - U.S.

JUAN EMMANUEL TRIGOS-HERNANDEZ

DISTRICT COURT NUMBER

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

Polly Kaiser, Deportation Officer, ICE

☐ person is awaiting trial in another Federal or State Court, give name of court

☐ this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District

☐ this is a reprosecution of charges previously dismissed which were dismissed on motion of:

☐ U.S. ATTORNEY ☐ DEFENSE
SHOW
DOCKET NO.
☐ this prosecution relates to a pending case involving this same defendant
MAGISTRATE
CASE NO.
☐ prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

Name and Office of Person

Furnishing Information on this form AUSA Nat Cousins

☒ U.S. Attorney ☐ Other U.S. Agency

Name of Assistant U.S. Attorney (if assigned)

Nat Cousins x7368

IS NOT IN CUSTODY

Has not been arrested, pending outcome this proceeding.

 1) ☐ If not detained give date any prior summons was served on above charges

 2) ☐ Is a Fugitive

 3) ☐ Is on Bail or Release from (show District)
IS IN CUSTODY
 4) ☒ On this charge

 5) ☐ On another conviction

☐ Federal ☐ State

 6) ☐ Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

 Has detainer been filed? ☐ Yes ☒ No

If "Yes" give date filed

DATE OF
ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED
TO U.S. CUSTODY
 Month/Day/Year
JULY 8, 2008

☐ This report amends AO 257 previously submitted
ADDITIONAL INFORMATION OR COMMENTS**PROCESS:**
☐ SUMMONS ☒ NO PROCESS* ☐ WARRANT

Bail Amount: _____

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

* Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Defendant Address:

Date/Time: _____ Before Judge: _____

Comments: